

UNITED STATES FIRST CIRCUIT COURT OF APPEALS

U.S. District Court of Massachusetts

FILED
IN CLERKS OFFICE
Docket No. 05-CV-11119 PBS

2007 DEC -5 P 4: 26

THEODORE KOLTIN, EDITH KOLTIN, AND
HAROLD KOLTIN,

Plaintiffs,

U.S. DISTRICT COURT
DISTRICT OF MASS.

v.

CITY OF FALL RIVER POLICE DEPARTMENT
ET AL,

Defendants.

PLAINTIFFS' NOTICE OF APPEAL

We, the Plaintiffs Theodore Koltin, Edith Koltin, and Harold Koltin hereby file this Notice of Appeal on this, the 5th day of December, 2007, to the First Circuit Court of Appeals of the United States, pursuant to the Federal Rules Appellate Procedure.

A timely filed and properly filed Second Amended Complaint (November 26, 2005), reviewed by attorneys at law before submission to the Federal District Court of Massachusetts (Boston) *pro se*, was subsequently claimed to have been "lost" by said Court.

The Plaintiffs provided a date-stamped copy of the Complaint for the Court, which had lain dormant for a lengthy period before such admission by the Court, and which continued to lie dormant following the re-submittal of a copy to the Court. The plaintiffs' telephone calls and letters to the pro se Clerk, the docket Clerk, and the Judge's Clerk remained unanswered.

During this period, the harassment, threats and intimidation by the Fall River Police Department and its associate defendants, and associated other parties, against the Plaintiffs increased in both frequency and intensity.

This augmentation of civil rights violations by the defendants, as well as additional unnamed parties -- still uninformed by the Court about the Complaint against them -- became the direct and proximate cause of the deterioration of the physical, physiological, and mental health of all three defendants.

Eventually, on or about November 2, 2006, the Court ordered the case dismissed, based on a "suspicion" that one of the Plaintiffs had signed the names of "his mother and possibly his brother" to the Complaint. (The ruling was sent only to Plaintiff Harold Koltin, and *not* to either Theodore or Edith Koltin.)

Said "suspicion" by the Court was wrong, false, and utterly baseless.

Meanwhile, the threats, intimidation, and harassment by the defendants and other parties escalated further.

The Plaintiffs' timely and properly filed Rule 60(b)(1) Motion to Vacate the Ruling by the Court, was filed and date stamped by the Federal District Court Clerk's Office on or around October 28, 2007, well before the one-year period noted in the Federal Rules of Civil Procedure for filing such a Motion.

The Motion to Vacate was accompanied by Affidavits signed in the presence of notaries public by Plaintiffs Edith Koltin and Theodore Koltin, and so stamped.

Little more than a week later, Plaintiff Harold Koltin (and, again, *not* the co-Plaintiffs Edith or Theodore) received a "Denied" Notice from the Court, with the notation, "Untimely filed." The Judge's Clerk told Plaintiff Harold, when Harold asked, that he could not explain the reason for the Judge's denial.

Nearly ten years after the beginning of the continuous pattern of unlawful actions by the Fall River Police and other defendants; more than nine years after three well-respected and law-abiding citizens (the Plaintiffs) were made criminal defendants as a result of the Fall River Police and others' filing false police reports; more than four-and-a-half years after a completely fabricated police report was concocted from Plaintiff Edith Koltin's 911 call, with the result being the Fall River Police Department's unlawfully Section 12-ing both her and co-Plaintiff Theodore, and the forced entry of seven (7) police officers' into Plaintiff Edith's house without a warrant, and committing unlawful search and seizure of our personal possessions, and, in particular, of my VCR and videotapes; and more than five years after the brutal beating by the Fall River Police of my disabled brother which has maimed him for the rest of his life, with the attacking police officer still brazenly stalking the Plaintiffs' house, this case has not even been allowed by the Court to be served on any of the defendants.

Wherefore, the undersigned Plaintiffs hereby file their Notice of Appeal with this Court, with the hope that none of the Plaintiffs (one entering her 87th year this coming March, another increasingly suffering from anxiety and depression, and the third suffering from multiple stress-related disorders (including but not limited to severe ulcerative colitis requiring the possible removal of his entire large intestine, severe obstructive sleep apnea which has become "life-threatening," as medically documented, and who remains indigent, homeless and shelter-less) expires before the justice system acts to stop these looming and real disasters.

Attached to this Notice of Appeal is Plaintiff Harold Koltin's Motion for Leave to Appeal in Forma Pauperis and Affidavit to Accompany said Motion.

Plaintiffs Theodore and Edith are awaiting formal entry of appearance by counsel and therefore request a brief stay of their one collective filing fee (with counsel committed to representing all three Plaintiffs), rather than *each* paying a \$455.00 fee.

By the plaintiffs (*pro se*),

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